(2)

Supreme Court, U.S.
FILED

06-248 JUN 17 2006

OFFICE OF THE CLERK

NO.: _____

IN THE

Supreme Court of the United States

Tiffany Edmonds

Petitioner

-vs-

State of Indiana

Respondent

Appendix On Petition for Writ of Certiorari To The Indiana Court of Appeals

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Kevin C. Smith
Clerk

CLERK
SUPREME COURT, COURT OF
APPEALS AND TAX COURT
STATE OF INDIANA
217 STATE HOUSE, INDIANAPOLIS, IN 46204

CauseNumber
46A05-0504-CR-00214
Lower Court Number:
46D010312FB164

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EDMONDS, TIFFANY -V- STATE OF INDIANA

You are hereby notified that the SUPREME COURT has on this 3/21/06

THIS MATTER HAS COME BEFORE THE INDIANA SUPREME COURT ON A PETITION TO TRANSFER JURISDICTION. FOLLOWING THE ISSUANCE OF A DECISION BY THE COURT OF APPEALS. THE PETITION WAS FILED PURSUANT TO APPELLATE RULE 57. THE COURT HAS REVIEWED THE DECISION OF THE COURT OF APPEALS. ANY RECORD ON APPEAL THAT WAS SUBMITTED HAS BEEN MADE AVAILABLE TO THE COURT FOR REVIEW, ALONG WITH ANY AND ALL BRIEFS THAT

MAY HAVE BEEN FILED IN THE COURT OF APPEALS AND ALL THE MATERIALS FILED IN CONNECTION WITH THE REQUEST TO TRANSFER JURISDICTION. EACH PARTICIPATING MEMBER OF THE COURT HAS VOTED ON THE PETITION. EACH PARTICIPATING MEMBER HAS HAD THE OPPORTUNITY TO VOICE THAT JUSTICE'S VIEWS ON THE CASE IN CONFERENCE WITH THE OTHER JUSTICES.

BEING DULY ADVISED, THE COURT NOW DENIES APPELLANT'S PETITION TO TRANSFER OF JURISDICTION.

BRENT E. DICKSON, ACTING CHIEF JUSTICE

ALL JUSTICES CONCUR, EXCEPT FOR SHEPARD, C.J., WHO DID NOT PARTICIPATE IN THIS CASE.

WITNESS my name and the seal of said Court,
this 21st day of MARCH, 2006.

/s/ _____
Clerk, Supreme Court, Court
of Appeals and Tax Court

FOR PUBLICATION

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IN THE
COURT OF APPEALS OF INDIANA

TIFFANY EDMONDS,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 46A05-0504-CR-214
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE LAPORTE SUPERIOR COURT
The Honorable Walter P. Chapala, Judge
Cause No. 46D01-0312-FB-164

January 18, 2006

OPINION - FOR PUBLICATION

KIRSCH, Chief Judge

Tiffany Edmonds appeals both her convictions and sentences for robbery,[1] as a Class B felony and criminal

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[1] *See* IC 35-42-5-1.

confinement,[2] as a Class B felony. She raises two issues, which we restate as:

I. Whether the trial court abused its discretion when it admitted Edmonds's statement to police into evidence; and

II. Whether the trial court abused its discretion when it ordered Edmonds's sentences to be served consecutively.

We affirm in part and reverse in part.

FACTS AND PROCEDURAL HISTORY

On the evening of November 29, 2003, Carlos Ruiz went to the Shangri-La Gentlemen's Club, in Gary, Indiana. While in the club, Ruiz was approached by Edmonds, a dancer in the club, and she asked Ruiz if he wanted to buy her a drink. Ruiz agreed and pulled two rolls of money from his pocket, which contained almost $900. Ruiz also paid for a lap dance from Edmonds. Edmonds told Ruiz that she had three children, and she asked him if he could give her $50 for Christmas money for them. Ruiz agreed to give her $50, but she told him not to give it to her at that time and that she would meet him later to get the money. Ruiz gave Edmonds his cell phone number so she could call him to collect the money. Ruiz returned to his motel room at the Red Roof Inn in Michigan City at approximately midnight.

At approximately 6:00 a.m. the next morning, Edmonds called Ruiz and said she wanted to come over and pick up the Christmas money. Edmonds arrived at the motel room at approximately 7:00 or 7:30 a.m. When Edmonds entered Ruiz's room she attempted to leave the door unlocked. Ruiz told her that the door locked automatically and to just let it go because it would lock itself. She then

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[2] *See* IC 35-42-3-3(b)(2)(A).

suggested to Ruiz that they get some ice, and they both walked to the ice machine near the motel office. Edmonds again tried to leave the door unlocked when they exited the room. When they returned from the ice machine, Edmonds again attempted to unlock the door, and Ruiz asked her what she was doing.

Before Ruiz could reach the door to close it, an unidentified male burst into the room and held a gun in Ruiz's face and told Ruiz not to look at him. As the man pushed Ruiz towards the bathroom, he told Edmonds, "Get everything, bitch. Make sure you get everything." *Trial Tr.* at 78. The man then struck Ruiz in the head with the gun and duct taped Ruiz's mouth closed and his hands behind his back. After the man forced Ruiz into the bathtub, he shouted to Edmonds, "Get it all, bitch. Hurry up, bitch. Did you get it all, bitch? Did you get it all yet? Did you find everything, bitch?" *Trial Tr.* at 80. Edmonds responded, "I'm hurrying. I'm hurrying. I'm getting it." *Trial Tr.* at 80. When the man noticed that Ruiz had freed one of his hands, he struck Ruiz in the head several more times with the gun. Soon thereafter, Ruiz heard the door of the room close. Edmonds and the man took approximately $800 in cash, two cell phones, four sets of keys, a checkbook, a wallet, and a watch from Ruiz's room.

On December 2, 2003, the State charged Edmonds with robbery, as a Class B felony and criminal confinement, as a Class B felony, and a warrant was issued for her arrest. On February 26, 2004, Michigan City Police Detective Royce Williams and Detective-Sergeant Larry Litchfield went to the LaPorte County jail to speak with Edmonds after she had been arrested. The detectives told her that they were there to speak with her about the pending charges of robbery and criminal confinement against her. They then informed her that they first had to make sure that she understood her

rights. Edmonds stated, "that was fine" and agreed to speak with them. Detective Williams read Edmonds a LaPorte County Prosecuting Attorney's Office Constitution Rights Form ("Rights Form") and told her to read along as he read. The Rights Form consisted of an advisement of rights section and a waiver of rights section. *State's Ex.* 2. The advisement of rights section contained five sentences that were to be initialed to indicate that Edmonds had read and understood them. The waiver portion of the Rights Form contained five questions that were to be answered either "yes" or "no."

Edmonds answered "yes" to questions one and two, indicating that she had been read her constitutional rights and that she understood them. *State's Ex.* 2. Question number three stated, "Do you wish to have an attorney at this time?" *State's Ex.* 2. This question should be answered "no" in order to waive the right to an attorney. After question three was read to Edmonds, she initially wrote "yes." In Detective Williams's experience, some people get complacent and just automatically put yes as the answer to question number three when they really do not want an attorney at that time. *Trial Tr.* at 7. Detective-Sergeant Litchfield also had witnessed times in his career when people have mistakenly answered yes to question three on the Rights Form. *Trial Tr.* at 32. Immediately after Edmonds wrote her response, Detective Williams asked her if she wanted an attorney before speaking to police, and she said no, crossed out the word yes, changed her answer to no, and initialed the correction. *Trial Tr.* at 7.

During the interview, Edmonds admitted being in Ruiz's hotel room during the robbery, but denied any previous knowledge of the crimes or any other involvement in them. *State's Ex.* 1, p. 19; 30. Edmonds told the police that the unidentified male who robbed Ruiz was an ex-boyfriend of hers; however the police later determined that this ex-boyfriend was incarcerated at the time of the robbery

and could not have been involved. *State's Ex.* 1, p. 12.

Before Edmonds's trial, she filed a motion to suppress her statement to the police, which the trial court denied. *Trial Tr.* at 39. Edmonds was found guilty of Class B felony robbery and Class B felony criminal confinement after a jury trial. At her sentencing hearing, the trial court found Edmonds's criminal history to be an aggravating circumstance and found no mitigating circumstances. The trial court sentenced Edmonds to ten years for each conviction and ordered the sentences to be served consecutively. Edmonds now appeals.

DISCUSSION AND DECISION

I. Admissibility of Edmonds's Statement

The admissibility of evidence is within the sound discretion of the trial court and will not be disturbed without a showing of an abuse of that discretion. *Wright v. State*, 766 N.E.2d 1223, 1229 (Ind. Ct. App. 2002). Our review of a denial of a motion to suppress is similar to our review of other sufficiency matters. *Id.* (citing *Goodner v. State*, 714 N.E.2d 638, 641 (Ind. 1999)). We review the ruling for substantial evidence of probative value to support the trial court. *Alford v. State*, 699 N.E.2d 247, 250 (Ind. 1998). We examine the evidence most favorable to the ruling along with any uncontradicted evidence. *Wright*, 766 N.E.2d at 1229. We do not reweigh evidence or judge witness credibility. *Id.*

Edmonds argues that the trial court erred when it denied her motion to suppress and admitted her statement to police because it was obtained in violation of her Fifth Amendment right to counsel. She specifically contends that after her arrest and before she gave her statement, she asserted her right to counsel, but that the police did not stop the interrogation.

"The right to have counsel present during an interrogation 'is indispensable' to the protection of the Fifth

Amendment privilege against self-incrimination." *Jolley v. State*, 684 N.E.2d 491, 492 (Ind. 1997) (citing *Miranda v. Arizona*, 384 U.S. 436, 469, 86 S. Ct. 1602, 1625 (1966)). When a suspect invokes his right to counsel during custodial interrogation, the police must stop questioning until counsel is present or the suspect reinitiates communication and waives his right to counsel. *Id.* (citing *Edwards v. Arizona*, 451 U.S. 477, 484-85, 101 S.Ct. 1880, 1885 (1981)). "Invocation of the *Miranda* right to counsel 'requires, at a minimum, some statement that can reasonably be construed to be an expression of a desire for the assistance of an attorney.'" *Davis v. United States*, 512 U.S. 452, 459, 114 S. Ct. 2350, 2355 (1994) (quoting *McNeil v. Wisconsin*, 501 U.S. 171, 178, 111 S. Ct. 2204, 2209 (1991)). If a suspect makes a request for counsel that is ambiguous or equivocal and, if in light of the circumstances, a reasonable officer would not understand the statement to be a request for an attorney, then the police are not required to stop questioning the suspect. *Id.* The Supreme Court in *Davis* noted that "it will be good police practice for the interviewing officers to clarify whether or not he actually wants an attorney" when a suspect makes an ambiguous statement, but it declined to adopt a rule requiring officers to ask clarifying questions. *Id.*

In the present case, Detective Williams and Detective-Sergeant Litchfield spoke to Edmonds while she was under arrest. After the detectives identified themselves and told her why they were there, she initially agreed to speak with them. Detective Williams read the advisement portion of the Rights Form aloud to Edmonds, while she read along and initialed each statement. He then read the waiver portion of the Rights Form, while she read along and answered the questions. Although Edmonds answered "yes" to question three, which asked whether she wished to have an attorney at that time, both detectives had experience with

suspects in the past, who had mistakenly answered "yes," but had intended to answer "no." In the past, suspects had become complacent and automatically answered "yes" to question three when they actually did not wish to have an attorney at that time. Because of Edmonds's actions and demeanor up to that point, the detectives had an objective, good faith question as to whether Edmonds really intended to answer "yes." They therefore made a non-coercive inquiry into whether she wanted an attorney before she spoke to police. She immediately answered "no," changed her answer on the Rights Form to reflect this, and initialed the change.

The present case is distinguishable from *Smith v. Illinois*, 469 U.S. 91, 105 S. Ct. 490 (1984), where nothing in the suspect's actions or statements prior to his request for counsel could be pointed to in order to cast doubt on the request. *Id.* at 96, 105 S. Ct. at 493. The request for counsel could only be found to be ambiguous by looking to the suspect's subsequent responses to continued police questioning. *Id.* at 97, 105 S. Ct. at 494. The Supreme Court held that when "nothing about the request for counsel or the circumstances leading up to the request would render it ambiguous, all questioning must cease." *Id.* at 98, 105 S. Ct. at 494. Here, the circumstances that make Edmonds's answer to question three equivocal all preceded her answer. Because Edmonds's prior actions and statements cast doubt on the legitimacy of her request for an attorney, the detectives were not required to stop questioning Edmonds, and the trial court did not abuse its discretion when it admitted her statement.[3]

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[3]Edmonds also contends that her statement was obtained in violation of her Sixth Amendment right to counsel. Because we find that Edmonds's answer of "yes" was not a clear and unequivocal request for an attorney and her Fifth Amendment right was not violated, the same reasoning applies, and we conclude that her statement was not obtained in violation of her Sixth Amendment right.

II. Consecutive Sentences

Sentencing decisions are within the trial court's discretion and will be reversed only upon a showing of an abuse of that discretion. *Westmoreland v. State*, 787 N.E.2d 1005, 1008 (Ind. Ct. App. 2003). The trial court's sentencing discretion includes determining whether to increase the sentence, to impose consecutive sentences on multiple convictions, or both. *Parker v. State*, 773 N.E.2d 867, 872 (Ind. Ct. App. 2002), *trans. denied*. We may revise a sentence authorized by statute if it is inappropriate in light of the nature of the offense and the character of the offender Ind. Appellate Rule 7(B); *Westmoreland*, 787 N.E.2d at 1009.

Edmonds argues that the trial court abused its discretion when it sentenced her to ten years for each of her convictions and ordered the sentences to be served consecutively. She first contends that the trial court improperly characterized her prior criminal history as a significant aggravating factor. In order to impose consecutive sentences, the trial court must find at least one aggravating circumstance. *Ortiz v. State*, 766 N.E.2d 370, 377 (Ind. 2002). If a trial court imposes consecutive sentences, when not required to do so by statute, this court will examine the record to insure that the trial court adequately explained its reasons for selecting the sentence imposed. *Id.*

The trial court is required to identify all significant aggravating circumstances. *Westmoreland*, 787 N.E.2d at 1010. "Significance varies based on the gravity, nature and number of prior offenses as they relate to the current offense." *Id.* (citing *Wooley v. State*, 716 N.E.2d 919, 932 (Ind. 1999)). The trial court only found one aggravating circumstance, which was Edmonds's criminal history. As a juvenile, Edmonds was charged with disorderly conduct and

intimidation and was placed on formal probation and ordered to write a letter of apology. The record is unclear as to whether she was adjudicated on one or both of these charges. Edmonds also had one adult conviction for disorderly conduct. The record does not contain any evidence that her prior disorderly conduct conviction and juvenile charge are related in any way to the present offenses. The only offense that could relate to the present offense is her prior juvenile charge of intimidation. We find based on this evidence that Edmonds's criminal history is not a significant aggravating circumstance, and the trial court abused its discretion in identifying it as one.

Edmonds also claims that the trial court abused its discretion when it did not find undue hardship on her dependents as a mitigating circumstance. We disagree. The finding of mitigating circumstances is well within the discretion of the trial court. *Abel v. State*, 773 N.E.2d 276, 280 (Ind. 2002). A sentencing court need not agree with the defendant as to the weight or value to be given to a proffered mitigating factor. *Bostick v. State*, 804 N.E.2d 218, 225 (Ind. Ct. App. 2004). "Only when a trial court fails to find a mitigator that the record clearly supports does a reasonable belief arise that the mitigator was improperly overlooked." *Abel*, 773 N.E.2d at 280. The record shows that Edmonds has custody of only two of her three children and that they had been in the care of her mother while Edmonds was in jail pending the outcome of this case. Based on these facts we conclude that undue hardship on Edmonds's children was not a significant mitigating circumstance, and the trial court did not abuse its discretion when it did not find it to be one.

Based on the conclusion that the trial court abused its discretion when it found Edmonds's criminal history to be an aggravating circumstance, we choose to exercise our right under Indiana Appellate Rule 7(B) to revise Edmonds's

sentence. We find that the imposition of consecutive sentences was inappropriate, and we revise Edmonds's sentence and order her sentences of ten years for robbery and ten years for criminal confinement to be served concurrently.

Affirmed in part, reversed in part.

MAY, J., and ROBB, J., concur.

CCS ENTRY FORM

LAPORTE SUPERIOR COURT **FILE STAMP HERE**
MICHIGAN CITY, INDIANA **FILED**
IN OPEN COURT

CAUSE NUMBER: 46D01-0312-FB-00164
JAN 06 2005

CAPTION: STATE vs. TIFFANY D. EDMONDS

The activity of the Court should be summarized as follows on the Chronological Case Summary (CCS): Comes now the defendant, Tiffany Edmonds, by counsel and files Motion to Suppress.

Submitted by:

BENJAMEN W. MURPHY
Walter J. Alvarez, P.C.
1524 West 96th Avenue
Crown Point, IN 46307
(219) 662-6400

Opposing Counsel:

State Prosecutor

****

(TO BE DESIGNATED BY THE COURT)

This CCS Entry Form shall be:

( ) Placed in case file
( ) Discarded after entry on the CCS
( ) Mailed to all counsel by: __Counsel __Clerk Court
( ) There is no attached order; or
The attached order shall be placed in the RJO:
Yes __No

DATE: 1/6/05 APPROVED:/s/_____
JUDGE

****

Certificate of Service

I certify that on the 5 day of January, 2005 service of a true and complete copy of the above and foregoing pleading or paper was made upon each party or attorney of record herein by facsimile on January 5, 2005 and hand-delivery on January 6, 2005.

BY:/s/ Benjamen W. Murphy

STATE OF INDIANA IN THE LAPORTE SUPERIOR COURT

COUNTY OF LAPORTE MICHIGAN CITY, INDIANA

F I L E D

STATE OF INDIANA IN OPEN COURT

-vs- CAUSE NO.: 46D01-0312-FB-164

JAN 06 2005

TIFFANY D. EDMONDS

MOTION TO SUPPRESS

Comes now the defendant, Tiffany D. Edmonds, by counsel and moves to suppress her statement taken on February 26, 2004 for the reason that her rights were violated under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution. In support thereof the defendant would show the Court as follows:

1. The defendant was charged by the way of information on December 2, 2003 with the Robbery, as a Class B felony and Criminal Confinement, as a Class B felony and a warrant was issued for her arrest.

2. The defendant was picked up in Porter County on the warrant was later transported to the LaPorte County jail.

3. On February 26, 2004, the defendant was brought into the detective bureau for a statement in regards to this case.

4. Prior to the statement being taken, the police had her review a waiver of rights form which she indicated that she wished to have an attorney. [a true and accurate copy of the waiver of rights form is attached hereto and

incorporated herein as "Exhibit A", wherein the firm indicated tat the defendant wanted an attorney]

5. Soon thereafter, the form was changed and initialed by Tiffany Edmonds to no.

6. The police did not tape the process of going over the waiver form or the initial conversation.

7. The police, then, took a taped statement from the defendant wherein she indicated that she was waiving here rights.

8. The Fifth and Fourteenth Amendments to the United States Constitution prohibition against compelled self-incrimination require that custodial interrogation be preceded by advice to the accused that she has the right to remain silent and also the right to the presence of an attorney. *[Edwards v. Arizona, 451 U.S. 477 (1981).* In *Edwards,* the defendant was in custody and requested an attorney. The following date, another officer has the defendant removed from his cell and advised him of rights. This time, the defendant gave a statement implicating himself. The U.S. Supreme Court held that when the defendant requests counsel that the police cannot reinitiate interrogation even when the defendant is read his or her rights until counsel has been made available to him or her unless accused initiated further communication, exchanges or conversations with the police. *[Id.]*

9. The Sixth Amendment prohibits post-indictment custodial interrogation of a defendant when he or she has requested counsel even when the defendant's Miranda rights are read and waived. *[Michigan v. Jackson, 475 U.S. 625 (1986).]*

WHEREFORE, the defendant respectfully requests that this Court suppress the state of Tiffany Edmonds which was procured in contravention of the Fifth, Sixth and Fourteenth Amendment to the United States Constitution.

Respectfully submitted,

/s/

Benjamen W. Murphy, #21028-45
Walter J. Alvarez, P.C.
1524 West 96th Avenue
Crown Point, Indiana 46307

LaPorte County Prosecuting Attorney's Office
Constitution Rights Form

You are a suspect in a criminal investigation. Before we ask you any questions, it is our duty to advise you of your constitutional rights and to warn you of the consequences of waiving these rights. To indicate that you understand what your rights are, please place your initials on the line provided after you read them and as they are read to you.

1. You have the right to remain silent. /i/ T.E.

2. Anything you say can and will be used against you in a court of law. /i/ T.E.

3. You have a right to talk with an attorney and have him/her present with you while you are being questioned. /i/ T.E.

4. If you cannot afford to hire an attorney, one will be appointed to represent you before any questioning, if you wish. /i/ T.E.

5. You can decide, at any time, to exercise these rights and not answer any questions or make any statements. /i/ T.E.

Constitutional Rights Waiver

If you are willing please indicate your answers to the following questions by writing "YES" or "NO" to each of these questions after you read them and they have been read to you.

1. Have you read the above statements of your constitutional rights and have they been read to you? Yes

2. Do you understand each of these rights? Yes

3. Do you wish to have an attorney at this time? No Yes

4. Has any force, threats or promises of any kind or nature been used by anyone to influence you to waive these? Yes

5. Are you willing to talk with the police? Yes

I am signing this waiver voluntarily after having been so advised of my Constitutional Rights and before any questions have been asked of me.

/s/Tiffany Edmonds

Witnessed By:

Officer's Signature: /s/Royce Williams Officer's Signature:Larry Litchford

Location of Statement:LaPorte County Jail (Det. Bureau)
Date: 2-26-04 Time: 1:46p.m.

STATE'S WITNESS- ROYCE WILLIAMS (DIRECT)

January 10, 2005

(Voir dire examination occurs. Jury selected and sworn. Jury admonished; following matter outside the presence of the jury.

THE COURT: Ready to proceed?

MR. MURPHY: I'm ready to proceed now.

THE COURT: I would assume then, the State is going to present some testimony?

MR. PRICE: We are, Your Honor. Call as our first witness, detective Royce Williams.

THE FOLLOWING EVIDENCE WAS PRESENTED:

(Witness approached witness stand and is sworn in by the Court.)

ROYCE WILLIAMS:

Having been duly sworn in by the Court, testified upon his oath as follows:

DIRECT EXAMINATION
BY MR. PRICE:

Q Tell us your name, please.

A Royce Williams

Q You're a detective with the Michigan City Police Department; is that correct?

A That is correct.

Q You're the detective that was assigned to investigate this particular case, that being the State of Indiana vs. Tiffany Edmonds; correct?

A That is correct.

Q In the course of that investigation, you interviewed several people including the victim, Mr. Carlos Ruiz, and further leads in your investigation developed a

suspect, one tiffany Edmonds; is that correct?

A That is correct.

Q Do you see her in Court today?

A Yes I do.

Q Could you point her out?

A (pointing to defendant) she's the female sitting in front of me in pink.

Q And you, sir- there came a point and time where you testified before this Court, you obtained an arrest warrant, and Miss Edmonds was arrested; is that correct?

A That is correct.

Q She was taken into custody and she was being housed at the LaPorte County Jail. At some point and time after her arrest, when there came a point when you and another detective went and talked to Ms. Edmonds; is that correct?

A. That is correct.

Q Do you recall when that was?

A That would be February 26, 2004.

Q Who was the other detective?

A That other detective would be Detective- Sergeant Larry Litchford.

Q What was the purpose of you going to the LaPorte County Jail to talk to Miss Edmonds?

A To speak to her reference this incident and to read her her rights and see if she wanted to tell us her side of the story reference to the incident that happened.

Q So you and Detective Litchford show up at the LaPorte County Jail. What happens upon your arrival?

A Upon our arrival, we request her summoned down from the jail, because it is connected. We're at the LaPorte County Sheriff's Department detective

Bureau in the basement; and once she gets down there, we advise who we are, read her her Constitutional Rights as she reads along, reference to the standard form we use every single time, and proceed from there whether or not she wanted to waive her rights.

Q And she was in fact brought out of the County jail down to the Detective Bureau?

A That is correct.

Q Was she brought into what is used by their Detective Bureau as a standard interview room?

A Yes.

Q And so the only people present in this room would have been yourself, Detective Litchford and Miss Edmonds.

A. Correct.

Q How long had Miss Edmonds been in jail at that point? Do you recall, approximately?

A. Are you including the incarceration in the other county or just in LaPorte?

Q Yes, if you would. If you have any idea.

A Approximately a week, but I'm not sure.

Q A period of that time you said was in another jurisdiction?

A Correct.

Q And then she came to be in the LaPorte County Jail for a much briefer period of time, perhaps how many days?

A I believe that on the second day we went and seen her.

Q All right. When she was brought down, did you and Detective Litchford explain to her who you were and why you were there?

A Yes we did.

Q What did you tell her?

A We told here that we were detectives with the Michigan City Police Department in reference to the warrant through Laporte County of Robbery and Criminal Confinement and we're here to speak to her reference to that, prior to that, we had to make sure she understood what her Constitutional Rights were.

Q What did she say in response?

A She said that was fine.

Q She agreed to talk to you?

A She did agree to talk. I can't tell you verbatim what exactly what she said, but she did not deny at that point and time and let us go through the form.

Q Now, is it your standard procedure that before you ever talk to anyone about the substance of the case itself, that you're there, you talk to them about that- you go through a waiver of rights with them, you indicate?

A That is correct.

Q Is that a standard form that you follow in each and every case?

A Yes.

Q Let me show you what's been marked for purposes of this suppression hearing, Detective, as State's Exhibit Number 2. Do you want to take a look at that and review and tell me if you recognize it.

A This is the form we used on that particular date when we spoke to Ms. Edmonds.

Q And that form contains a variety of questions that – first of all, would you say there is an upper and lower half you that form?

A Yes there is.

Q First it contains five enumerated sentences and where after each one- that is an advisement, a numbered

advisement, if you will, the person places their initials?

A Correct. That's the Constitutional Rights' portion.

Q And did in fact Ms. Edmonds read each of those and place her initials after each one?

A I read them and she was advised to read along as I read, and she subsequently looked at the page, and I understood she was reading it as I read.

Q All right. She placed her initials on; is that correct?

A Correct. After each one was read and explained.

Q Now that Exhibit 2, that is not an original, is it? That's a copy?

A That is a copy.

Q Do you believe that copy is a true and correct copy of the original?

A Yes.

Q All right. You've compared it to the original and you believe that it is in fact the same in all aspects?

A Yes.

Q All right. Now, the second lower portions, Constitutional Rights Waiver, each of those five enumerated lines are questions. Would you agree?

A I agree

Q And, there is a line after that and on each line, the person is supposed to write an answer yes or no; is that correct?

A That is correct.

Q First one deals with whether or not they understand the rights that have been read to them above, and if they'd been read to you, and what was her response to that?

A The first one is, have they read the statements of the Constitutional Rights and have I read it to them, and of course she wrote yes.

Q The second one deals with what?

A If she understands the rights that I've read and that she's read and she replied yes.

Q And the third one, what does that deal with?

A The third question is, "Do you wish to have an attorney at this time."

Q What did she write in there initially?

A She wrote "Yes."

Q All right. And did there come a point and time where you questioned her about that?

A. Well immediately following this, because this is not the first time reference to this happening, because that the two answers prior to that were yes, some persons do get complacent and just automatically put yes in there. So to confirm that everything is done correctly, as soon as she put yes, I asked her, you do want an attorney before you speak to police. And she said no. At that point I said, "Please put no there. Cross out the yes, and put your initials there to make it look like I didn't do it."

Q Did she do that?

A She did.

Q And is that what's reflected on that form?

A That is what's reflected.

Q Now is that the question- is that- obviously it's a Constitutional Right, but why is that an important question with respect to what takes place after that?

A Well, if she did wish to have an attorney at that time, obviously if she doesn't have an attorney present with her, all questions would cease at that point and time.

Q So if she in fact answered yes then are you saying it is protocol, in fact, mandatory that you can no longer ask any questions including questions 4 and 5 on this form?

A That is correct.
Q Everything ceases at that time?
A Everything.
Q Did everything cease at that time?
A No it did not, because she made a mistake and corrected her mistake and place her initials in that answer box.
Q And in fact, you went on with questions 4 and 5 with the other two rights, and she answered those by writing the answers indicated on State's Exhibit 2; is that correct?
A That is correct.
Q Now, that rights waiver form is read to her immediately upon your entering in the room with her and introducing yourself before you ever ask any questions; is that correct?
A That is correct.
Q Now there came a point and time then where you started interviewing Miss Edmonds and you asked her some questions about what her involvement was and what information and knowledge she may have about this event; is that correct?
A Correct.
Q How long do you think that lasted?
A Probably thirty minutes, give or take.
Q Was that tape-recorded or audio or video-taped recorded in any way?
A No, not the oral interview.
Q Did there come a point in time, though, where there was an audio-taped statement that was taken?
A Yes there was.
Q All right. And do you know approximately what time it was that that happened?
A That would have been at 2:29 p.m., the same day.

Q Now on this Constitutional Rights waiver form, there is written thereon a date and time; is that correct; State's Exhibit 2?

A Correct.

Q What does that indicate the time to be?

A 1:46 p.m.

Q On the 26th day of February, 2000- it says 2004; is that correct?

A Correct.

Q: Any you said there came a point and time where the tape recorder was turned on ; is that correct?

A That's correct.

Q And you proceeded to tape the statement that was given by Ms. Edmonds.

A Yes.

Q do you set the record, so to speak, on that, by explaining who you are, why you're there, kind of preamble as to where you're at, the time, date and so on and so forth.

A Yes. Before we get into the body of the statement, we once again go over the Constitutional Rights form that we did orally, we then do it for the purpose of the taped statement.

Q And then once you set that record, you go voer this very form that you just talked about in State's Exhibt 2 on the tape; is that correct?

A That's correct.

Q You review the exact same issues that are covered in the written form that you would have reviewed in this case less than forty-five minutes prior.

A Yes I did.

Q And that would be reflected on the audio tape as well; is that correct?

A Yes it is.

Q: Is it standard any time you take any type of a taped statement, that your department has that statement immediately afterwards transcribed.

A; Yes.

Q: And how is that transcribed?

A Through a secretary.

Q And once that tape is transcribed, typed up, if you will, in a written question and answer format, it's provided to you then immediately?

A Yes it is.

Q Do you examine it and compare it to the tape to insure that what was said on the tape, is properly reflected on the transcription itself?

A: Yes.

Q Did you do that in this particular instance?

A Yes.

Q Let me show you what's been marked as State's Exhibit 1, for purposes of this suppression hearing, if you would review that, Detective, and tell me if you recognize it.

A I do.

Q What do you recognize it as?

A This is the taped statement that I took from Tiffany Edmonds.

Q That taped statement, again, is there a certain portion in that taped statement, first of all, very early on if not in fact the very first page of the transcription that sets the date and time?

A Yes.

Q What is that?

A It's February 26th, 2004, and the time when it started was 2:29 p.m.

Q 2:209. So State's Exhibit 2 was started at 1:46 . You started the tape a little less than forty-five minutes

later; correct?

A Correct

Q Now, the very first page or two of that statement, does that reflect the transcription of the conversation, the question and answer colloquy that you engaged with Miss Edmonds about her understanding of what her rights were.

A Yes.

Q Did you go through that with her?

A Yes I did.

Q is one of those questions that's brought out during that taped portion of the interview and reflected in that transcription, cover the issue of her desiring an attorney or not?

A Yes.

Q: Could you read into the record once you find it.

A: On the second page, Iasked, do you – "Do you wish to have an attorney at this time?" Tiffany's response was "Not at this time, no."

Q: How many interviews do you think you've taken, Detecitve Williams, interviews of individuals who were suspects in criminal cases?

A: Over a hundred.

Q Is this a common occurrence where because of the way the questions are worded and the order they're worded in, that individuals write "yes" because they're what, in the habit of just writing "yes" or what?

A Yes. I don't know – if they just become complacent just the way that they wrote, yes, yes, and they follow in order, although they meant something else. That's why I want to make sure that they do the form the way they want to do it instead of making a mistake and stopping something that they want to proceed

with.

Mr. Price: No further questions of this witness. Your Honor. We move to admit State's Exhibits 1 and 2.

The Court: Any objection on the exhibits?

Mr. Murphy: For this hearing, no.

The Court: All right. They will be admitted. Cross.

CROSS EXAMINATION
BY MR. MURPHY:

Q. Detective Williams, you were assigned to investigate this case; correct?

A. Correct.

Q. And during your investigation, you talked to various people. Correct?

A. Yes.

Q. And you came before this Honorable Court and testified in a probable cause hearing; correct?

A. Yes.

Q. And that was to – to be able to file an information and have a warrant executed for the arrest of Tiffany Edmonds; correct?

A. Correct.

Q. And that was done prior to you speaking to her; correct?

A. Yes.

Q. And she was picked up in Porter County; correct?

A. Yes.

Q. And in Porter County, there was a warrant for this case and there was also a warrant out of Hammond; isn't that correct?

A. I believe for FTA.

Q. Okay. And you found out that she had been picked up on that warrant; correct?

A. Yes.
Q. And you were making plans to possibly going out to Hammond or maybe Porter County to question her; correct?
A. If it didn't work out for her to come back here soon, because I believe she already had a court date set in Hammond, so they were going to keep her on theirs first.
Q. And you said the purpose was you wanted to hear her side of the story; correct?
A. Correct.
Q. You didn't think her side of the story was necessary before you got charges filed against her, did you?
A. Well, I didn't have her, I couldn't find her, so obviously we had to file charges first, and if that's the case, we can't just let it go.
Q. So you filed the charges first without hearing her story' correct?
A. I filed for probable cause.
Q. Okay. And it's fair to say that it's pretty important to talk to a person who's charged, before they appear in court; isn't it? I mean , isn't that why you wanted to go to Hammond?
A. Once she was arrested?
Q. Yes.
A. Well either I knew she was incarcerated, and being that she had charges already in Hammond, it would just be a matter of time before I did speak with her, and I would speak with her, but being that they had held her on a specific charge there, and had her on – and already had a court date set for I believe the 29th, I was going to wait that one out.
Q. Now once they're brought over here, you know they're brought before the Court; correct?

A. Okay.
Q. Correct?
A. Sure.
Q. Or sometimes they have hired their own attorney; correct?
A. Or have one appointed, yeah.
Q. You don't normally contact attorneys, because you want to talk to someone and hear their side of the story, do you?
A. No. We go to the individual who is suspected of committing the act or allegedly committed the act and ask them if they wanted to speak about the incident.
Q. But I'm saying, you never contact an attorney once someone has entered their appearance to speak, because you want to speak with their client, do you?
A. I had no idea she had an attorney.
Q. I'm just asking you if an attorney had entered-
A. -do I call an attorney-
Q. -would you contact an attorney and ask to speak-
A. -I have not.

Q You wouldn't do that, would you?
A I haven't.
Q You haven't?
A No. Contact an attorney?
A Yes.
A No. I contact the person unless I understand already they have an attorney and does not wish to speak to law enforcement without the presence of one.
Q: But I'm saying, once an attorney has entered his appearance in the case, and you're the detective on the case, do you ever contact the attorney and tell the

attorney you want to speak to their client?

A No.

Q You never do that. You just go right to the person; correct?

A I have in the past.

Q They don't have the benefit of having an attorney.

A Well if I had knowledge that they had an attorney, I wouldn't go that route. I had no knowledge she had an attorney. That's why I confront her.

Q: Now, when you go, you had her - I mean, she was in the LaPorte County Jail; correct?

A Correct.

Q And you had her brought down to speak to you; correct?

A Yes, In the Detective Division.

Q All right. And you also had another detective present as well; correct?

A Yes I did.

Q Okay. And before you talk to these people, you always advise them of their rights; correct?

A Correct.

Q And you have a standard form you used?

A Yes.

Q: Now, Miss Edmonds was in custody in LaPorte County; correct?

A Yes she was.

Q She didn't voluntarily come down to talk to you, did she?

A She was summoned donw by me and brought down by the jailers.

Q So are you basically - she was probably cuffed when she was brought down; correct?

A I didn't see her in the hall. I don't know if she was cuffed or not.

Q But I mean, she wasn't free to just walk form her cell to the Detective Bureau; correct?

A Yes.

Q And then before you questioned her, it's standard for you to go over the entire form; correct?

A That is correct.

Mr. Murphy: May I approach the witness?

THE COURT: Yes.

(Approaches witness with waiver form.)

Q Now specifically, you went over the first five paragraphs; correct, with her?

A First I went over this paragraph up here and then I went into the questions where it requires her initials, that's the actual Constitutional Rights.

Q Are these her initials?

A Yes.

Q So you had her put her initials next to each one of these when you had her questioned; correct?

A When I read them and she read them afterwards, she placed her initials on the line provided afterwards.

Q Okay. And then below there, there is something called Constitutional Rights Waiver; correct?

A Correct.

Q You had them read through this; correct?

A Yes. Same thing, I read this sentence here out loud and then started with question number one.

Q Okay. This part up in front before the numbered paragraphs, that's the instructions; right?

A Correct.

Q It says, "If you are willing, please indicate your answers to the following questions by writing yes or no to each of these questions after you have read them and they have been read to you." Correct?

A Exactly.

Q And those are the instructions. They can put yes or no; correct?
A Yes.
Q Okay. And paragraph 1, what does that read?
A Sentence one says, "Have you read the above statements of your Constitutional Rights, and have they been read to you?"
Q And what was her answer?
A "Yes."
Q Paragraph number 2.
A Sentence two?
Q Yeah.
A "Do you understand each of these rights?"
Q And what's her answer?
A "Yes."
Q And then in paragraph number three, "Do you wish to have an attorney at this time?" What did she originally write?
A She wrote "yes".
Q What does that mean to you? Someone tells you yes, I want a lawyer.
A And as I explained earlier, a lot of people get complacent -
Q -I'm just asking you what that means.
A I just wanted to make sure she understood what she wrote and that this conversation would be over.
Q: You still haven't answered my question. I'm simply asking you, if someone writes, "Do you wish to have an attorney at this time?" and they write "yes", what does that mean to you?
A: It means that they want an attorney.
Q: Okay. And that's exactly what was written; correct?
A: And that's what I asked her.

Q: Okay.
A: Just to verify, because my past experience has shown the people-
Q: -I'm not interested-
A: -yes, obviously yes would mean they want an attorney.
Q: And then paragraph number four, what does that say?
A: Sentence four, "Has any force, threats or promises of any kind or nature been used by anyone to influence you to waive those rights?"
Q: And what is the answer there?
A: "No."
Q: That's different than the answer in response to question number one, isn't it? Number one says "yes": correct?
A: Sure.
Q: Number two says "yes"; correct?
A: Yes.
Q: And number four says "no"; correct?
A: That is correct.
Q: So basically you said based on past experience you think sometimes people don't understand what they put their answer down; correct?
A: Correct.
Q: And you're not a mind reader; right?
A: No.
Q: I mean, you just know that basically there's the question, there's the answer; correct?
A: From my experiences, yeah.
Q: And then you ask her, did she- is that what she wanted. You ask her "Do you want an attorney."
A: I ask the question and she did write yes.
Q: But then you ask her after she put had yes-
A: - yes. After putting that "yes", I said, are you- you

want an attorney right now? That's what you put. She goes "no", I said, well-

Q: -so basically you ask her, "So do you" - after she had written, yes, you said, "Do you wish to have an attorney?"

A: I asked her if she wanted an attorney at this time because that means we have to stop talking right now, and when she said no, she realized she made the mistake, I told her to cross that out -

Q: -well wiat. You're saying that her answer has changed. I'm not asking you to read her mind. It says "yes" at first.

A: It says "yes".

Q: And then yu ask her, "is that what you wanted?"; correct?

A: Correct.

Q: You initated that; correct?

A I did.

Q: Now my question is, between the time that she wrote yes there and that you asked her the question, how much time elapsed?

A Between the time - of question two and three?

Q No. Once you saw that she had written "yes" there.

A Immediately thereafter.

Q So between the time she wrote "yes" and then changes to "no", did you ever make an attorney available to her?

A No I didn't.

Q: So she was never able to talk to an attorney after she wrote "yes".

A Because I wanted to make sure it was not a mistake, as it's been done so in the past. Even number four.

Q: Did you ask her if paragraph number four was a mistake?

A If this one would have been left "yes" without me coming back to that, that one most likely might have been "yes" as well, jsut because people get complacent.

Q I'm just asking you a question, did you ask her if paragraph four, if her response to that was a mistake?

A No

Q Did you ask her if she made a mistake in her response to paragraph number five?

A: No. I did not.

Q: Did you ask her if she made a mistake in regards to paragraph number one?

A: No.

Q: Did you ask her if she made a mistake in regards to paragraph number two?

A No.

Q: Now paragraph number three was the only question that you asked her whether was mistaken on; correct?

A That is correct.

Q Now it's fair to say that the advantage are different when someone has a lawyer, isn't it?

A It just depends.

Q How often do people talk to you when they have a lawyer?

A I've spoken to people with attorneys in the same room.

Q But it doesn't occur very often, does it?

A No it doesn't.

Q Most of the time most lawyers will advise you not to - will advise most their clients not to talk; right?

A I believe so.

Q I'm sure lots of times you probably have lawyers contact you and instruct that they have been hired an not to speak with their client; correct?

A They have in the past.
Q And the purpose of having a lawyer is to level the playing field. Isn't it?
A It's their right, it's their Constitutional Rights. You can call it what you want. It's their Constitutional Right. If they want an attorney, they can have one.
Q In this room there was two detectives; correct?
A Correct.
Q Miss Edmonds didn't voluntarily come there to talk to you, did she?
A She was escorted down.
Q I mean, she was picked up on a warrant; correct?
A She could have stopped it right there and then.
Q And you initiated the conversation, I mean, you had her summoned out, correct, from the jail, Detective?
A Yes.
Q And after she ut down at her response to number three, "Do you wish to have an attorney?" she wrote "yes"; right?
A And I wanted to make sure she didn't make a mistake.
Q And that was at your prompting, your questioning, your asking her whether that was clear or not clear.
A Correct.

MR. MURPHY: Correct? I don't have any more questions.

BY MR. PRICE (RE-DIRECT)

Q Detective, you said you'd like to have had her sign - first of all, she had contacted you and left a message that she was going to talk to you; is that correct?
A That is correct.
Q Did she ever show up to do that?
A No she did not.
Q So the only opportunity you ever had to talk to her was at the LaPorte County Jail.

A That is correct.

Q Now with respect to- is there any question in your mind that she was there freely and voluntarily answering these questions?

A I believe she was.

Q Did she ever say, "I'm going to get up, I'm going to leave."
Did she ever try to open the door-

A -not one time.

Q "Take me back to my cell"

A No

Q Nothing like that. Did she ever tell you "I feel sick, want anything to drink."

A No.

Q Now, you said that when she answers this question, Mr. Murphy asked you, "What does that mean to you." Yes means that they want an attorney. And you said that - I think that you asked her the question because you wanted to clarify it; is that correct?

A That's correct.

Q Basically, on that particular question, you would have two options; is that right? One, you either stop everything right then and there, close your notebook and you and Detective Litchford get up and walk out of th room and leave her there; right?

A Correct.

Q It's over with; right?

A Yes.

Q So you're explaining to them what's going on' right?

A Yes.

Q And in fact, with respect to the issue that Mr. Murphy raises that, "Well you didn't do this on any of the other four questions." In fact you didn't; is that correct?

A That is correct.

Q If if fact the answer to those questions were such that they were different, let's say on question one, "Have you read these statements and have they been read to you." If they put "no".

A If they put "no", then I would go over it one more time. I would ask, "What didn't you understand?" If it was question number two, I would ask if there was something I needed to explain. Once again, I would not stop at that point unless she did in fact clarify that number three, she wrote "yes" and meant yes, it would cease at that time.

Q Same thing with number four, "Any forces or threats used? If they would have put "yes", would you have inquired about that?

A Yes, that's what's happened in the past.

Q And in fact she ut "no", so there's no reason to inquire further about that; right?

A Correct.

Q And "Are you willing to talk to the police?" She put "yes". What else is there to talk about in that particular instance if she puts "yes", other than you start talking about the case; right?

A Correct.

Q: And in fact, the very answer that she gives to question number three, the first time, that being "yes", really is contrary to what she put to question number three above where she indicates that she had the right to have an attorney present and be present with her while she's being questioned. She understood that; right?

A She understood it by placing her initials next to it.

Q So the fact that she had said that she understood that right, but then she answers the question that she

wants an attorney at that time, your reason for again asking the question was to make sure she understood that right and that was intentionally her answer.

A Correct.

Q And it was what period of time between the time she wrote that and you inquired?

A Immediately thereafter.

Q Did you discuss anything else about "Well, you know, this is -

A -no.

Q '"you put that down and did you really mean that? Do you want to think about it?" Did you say anything like that?

A No.

Mr. Price: No further questions, Your Honor.

The Court: Mr. Murphy.

Mr. Murphy: Nothing further. Your Honor.

The Court: Step down. Thank you.

(Witness complies and steps down from the witness stand.)

Any other witnesses?

Mr. Price: Detective Larry Litchford, Your Honor.

(Witness approaches witness stand and is sworn in by the court.)

Larry Litchford:

Having been duly sworn in by the Court, testified upon his oath as follows:

Mr. Price (Direct Exam)

Q Would you tell us your name, please.

A Larry Litchford.

Q Detective Litchford, you're a detective with the Michigan City Police Department; is that correct?

A Yes, sir.
Q You're a sergeant with the Detective Bureau; correct?
A Yes, sir.
Q You heard Detective Williams testify here about this issue that's being raised in this suppression hearing; is that correct?
A Yes, sir.
Q Were you in fact present during the time when that interview was given to yourself and Detective Williams that occurred on the 26th day of February, 2004 in the LaPorte Coutny jail?
A Yes I was.
Q And were you present when Miss Edmonds was questioned, or first of all, was advised as to what her Constitutional Rights were?
A Yes I was.
Q Did you witness her placing her initial after each of the five rights that were read to her and she read along with?
A Yes.
Q Were you present also when each of the questions were asked with respect to whether or not she understood each one of those rights?
A Yes.
Q You were present when question number three was asked of her?
A Yes I was.
Q Did you see her write "yes"?
A Yes I did.
Q And what do you recall happening at that point?
A At that point and time, Detective Williams asked her the question again and explained to her was yes what she wanted to stay with, and at that point and time, she said no, a mistake was made. She wanted to talk

to us. She didn't want an attorney. So she crossed out the entry "yes" and put "no".

Q And then she proceeded to answer the other two questions the way it's indicated on the form; is that correct?

A Yes.

Q You have been a detective longer than Detective Williams; is that correct?

A Yes.

Q How long?

A I've been a detective for twenty-seven years.

Q How many people do you think you've interviewed?

A Thousands.

Q For most of that time, has this waiver of rights form been the similar type form that you've always used?

A Yes, sir.

Q Have you also noticed that individuals sometimes when they're answering these questions, they in fact also place "yes" for question number three?

A I've had people say one thing and write down another; yes, sir.

Q What do you do in those instances?'

A At that point and time, I make sure that the answer they wrote down is what they wanted and I give them the opportunity to change it or keep it the same.

Q What if they tell you that's what they meant?

A Then the interview ceases at that point and time.

Mr. Price: No further questions. Your Honor.

The Court: Cross.

Mr. Murphy (Cross-Examination)

Q Do you have the waiver of rights form in front of you?

A Yes, sir.

Mr. Murphy: Can I approach the witness?

Witness: You sure can. (Attorney approaches witness stand.)

Q This is the form that you guys went over; correct?

A Yes.

Q I want you to look under the Constitutional Rights Waiver; correct?

A Yes.

Q Now you already heard him read what the instructions are; right?

A Yes.

Q Someone can put yes or no; correct?

A Yes

Q this is the form that you give everyone before you speak to; correct?

A Yes.

Q Paragraph number three, "Do you wish to have an attorney at this time?" If someone writes "yes", what does that mean to you?

A At that point and time, it depends on the situation. At that point and time, well I'm not going to sit here and tell you that when they put yes that they want an attorney, because that's not true all the time.

Q I'm not asking you to read their mind. I'm just asking you to look at that document. Paragraph says, "Do you wish to have an attorney at this time?", and someone writes "yes". I mean, what does that mean? I'm not asking you to read anyone's mind. I'm asking you what that response to that question is.

A I can tell you that sometimes when they write yes, they mean no.

Mr. Murphy: Judge, can you direct him to answer the question?

The Court: No I can't-

Witness: - Your Honor, I can't answer

that question.

The Court: I think he's going to have to answer it as best he can. Do you understand the question?

Witness: Yes, sir.

Q So you're telling me that if someone writes do you understand I mean, "Do you wish to have an attorney at this time?" if someone writes "yes"-

A - what I'm telling you is, in this incident when she wrote "yes", I can tell you that she meant no. She did not mean yes. If she would have meant yes, we would have stopped the conversation; the statement would have stopped; we wouldn't have continued.

Q But she wrote "yes", correct?

A She wrote "yes".

Q She wrote, "Do you wish to have an attorney at this time?" She wrote "yes".

A That's true. That's true.

Q Okay. And then either you or Detective Williams then asked her, is this what she meant; correct?

A Yes. And she said no.

Q So after she had wrote "yes", you continued to question her; correct?

A No that's not true. She wrote "no", and then we continued to question her. If she would have said "yes", I want this answer to remain "yes", we would have stopped.

Q No. I'm asking you if she had wrote this answer "yes" to question number three; correct?

A Yeah.

Q And you asked her, is that what she meant.

A And she said no.

Q But I mean, you asked her a question after she had written "yes" next to that; correct?

A Yes. That's true.

Q Okay, So paragraph number three, she did write "yes".

A Yes.

Q Next to the question "Do you wish to have an attorney at this time?"

A That's true.

Q And you guys continued to question her.

A After she said "no". I understand what you're saying, but you're trying to - I can't sit here and answer to you, okay, that this individual meant this answer when she wrote it.

Q I'm not asking you to -

A - if you're asking me did she write "yes, I want an attorney", she wrote that down, the first answer, "yes".

Q I'm just saying when she first wrote "yes", you guys continued to talk to her; correct?

A Yes.

Mr. Murphy: I don't have any other questions.

Mr. Price: (Re-Direct Examination)

Q: Detective Litchford, if you really wanted to be deceptive about this, couldn't you just tear this form up, throw it away and start all over?

A That would be hiding something, sir, and we have nothing to hide. We don't destroy stuff like that.

Q So instead, you didn't do that, you crossed it out, but it would have been just as easy to say, "Now, Tiffany, let's start all over and do it right this time." But you don't do that, you're saying.

A No we don't.
Q Didn't do that in this case?
A No. I don't allow that as a supervisor.
Q And in fact one of the last things that Ms. Edmonds would have read before she signed it, is that bottom paragraph there that starts off, "I am signing this"- would you read that into the record. What does that say?
A What it says is that "I am signing this waiver voluntarily after being so advised of my Constitutional Rights and before any questions have been asked for me."
Q And in this case, did Detective Williams make her read that as well before she signed it?
A That's true. Yes, sir.

Mr. Price: No further questions, Your Honor.
The Court: Any further questions?
Mr. Murphy: I don't have any further questions.

THE COURT: Can I see that form? Sergeant Litchford, were you there with during the entire statement?
WITNESS: Yes, sir.
THE COURT: And by meaning the "entire statement", it was the reading of the rights form?
WITNESS: Yes,sir.
THE COURT: And where you there when she was advised of the right to have an attorney with her while she was being questioned?
WITNESS: Yes, sir.
THE COURT: And to acknowledge the reading of that right, does she do any physically?

WITNESS: Yes she does.
THE COURT: What's that?
WITNESS: She puts yes. What's she's asked is, you do understand you have the right to have an attorney present with you during questioning if you wish and she puts "yes", she understood that.
THE COURT: Do you want to take a look at this exhibit?

WITNESS: Yes, sir. I'm sorry. She initialed it. That's the top portion there. It says "You have a right to talk with an attorney and have him present with you while you're being questioned." Let me explain something, too. We don't only read this form, we also explain the Constitutional Rights to the person to make sure they understand it. I was with Detective Williams. After he said that, he took it a step further, and he advised her that what that meant was that if she wants an attorney present at this time, that she could have one. She indicated she understood that and she had placed her initials on the space provided.
THE COURT: So that when she answered question number three on the bottom, "Do you want an attorney at this time? And she said "yes", that would be indifference to the advertisement of number three up above where she put her initials.
WITNESS: Yes, that's true.
THE COURT: That's all the questions I have. Any follow-up?
Mr. Price: No, Your Honor.

Mr. Murphy: No.

THE COURT: Okay. You're excused.

(Witness complies and steps down from witness stand.)

Any other witnesses?

Mr. Price: No, Your Honor.

THE COURT: Do you wish to call any witnesses?

Mr. Murphy: No, Your Honor.

THE COURT: The Court is going to deny your Motion to Suppres. I would assume that's any statements that she made; right?

Mr. Murphy: That's the only statement; correct.

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Mr. Price: Thank you, Your Honor. The State's next witness will be Detective Royce Williams, and during the course of his testimony, it's anticipated that there will be, in addition to some various photographic exhibits, we'll be getting into the issue of the tape-recorded statement that was given to Detective Williams and Detective Litchford by the defendant and that taped statement was subsequently transcribed as this Court is aware.....

Mr. Murphy: And Your Honor, just for the record, too, the redactions were based upon my Motions in Limine, and previously as the Court knows, I filed a Motion to Suppress and that was decided before the trial commenced, and since it's going to be introduced at this time, I would reiterate the same objection. I would make the same argument that I previously made, that it's inadmissible under the 5th

Amendment, and 6th Amendment of the United States Constitution. I would ask the Court to note a continuing objection throughout any statements or any testimony that Detective Williams gives regards to that statement. I would object to the admission of the statement, just for the record. I would like it to be noted as a continuing objection so I don't have to keep interrupting and stating my objection.

THE COURT: Okay. So noted.

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Mr. Price: Your Honor, we move to admit State's Exhibit 18 and publish.

Mr. Murphy: Just for the record, I would note the objection that I stated earlier.

THE COURT: Correct. Overruled. Will be admitted.

STATE OF INDIANA LAPORTE SUPERIOR
COURT NO. 1
COUNTY OF LAPORTE 2005 TERM

STATE OF INDIANA

vs CAUSE NO. 46D01-0312-FB-164

TIFFANY D. EDMONDS

VERDICT

"We, the Jury, find the Defendant Tiffany D. Edmonds, guilty of Criminal Confinement, a class B felony.

/s/_____
FOREPERSON"

Dated this 11th day of January, 2005.

STATE OF INDIANA LAPORTE SUPERIOR COURT NO. 1

COUNTY OF LAPORTE 2005 TERM

STATE OF INDIANA

Vs CAUSE NO. 46D01-0312-FB-164

TIFFANY D. EDMONDS

VERDICT

"We, the Jury, find the Defendant Tiffany D. Edmonds, guilty of Robbery, a class B felony.

/s/

FOREPERSON"